



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Matthew Zuker, Chairman
James S. DeCelle, Vice Chairman
Craig W. Hiltz, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
Timothy C. Foley, Associate Member

DECISION - BOARD OF APPEAL CASE NO. 16-16

APPLICANT

Anna Lamperti

LOCATION OF PROPERTY INVOLVED:

**54 Diamond Street, Walpole, MA 02081
Walpole Assessors Map 34, Parcel 25
Zoning District Residential GR**

APPLICATION:

The grant of a VARIANCE from Section 6.B.1 of the Zoning Bylaw to allow a sun porch to be constructed within 15' of the rear lot line, where 30' is required as shown on a plan entitled: "Lamperti House, 54 Diamond Street, Walpole" drawn by Hickox Williams Architects, 58 Winter Street, Boston, MA 02108 Company, dated August 19, 2016.

On September 14, 2016 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information as to granting of the Variance requested. Said public hearing was closed and voted on September 14, 2016. The members who were present and voting:

Matthew Zucker, Chairman
Craig W. Hiltz, Clerk
Susanne Murphy, Member
Mary Jane Coffey, Member
Timothy Foley, Associate Member

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VOTE OF THE BOARD:

A motion was made by Susanne Murphy to grant the Variance under Section 6.B.1 of the Zoning Bylaws to allow a sun porch to be constructed within 15' of the rear lot line when 30' is required and as shown on the plan of record. Motion seconded by Mary Jane Coffey. The vote was 5-0-0 (Zuker, Hiltz, Murphy, Coffey, Foley voting); therefore the Variance under Section 6.B.1 of the Zoning Bylaw is granted as may be amended.

REASONS FOR DECISION

- 1) The shape of the lot is unique and has not changed since a deck was previously approved on October 15, 1997, Case No. 42/97.
- 2) The way the house is situated on the lot does create a hardship.
- 3) The addition of a sun room will not encroach on any neighboring property.

CONDITION OF APPROVAL

- 1) Construction will be completed in accordance with the plans submitted at the public hearing;
- 2) It was determined that the house at 54 Diamond Street is connected to Town sewer and water.

REASONS FOR DECISION:

It is the finding of the Board that the applicant was able to meet the requirements of Section 2.3 of the Zoning Bylaws.

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant or petitioner.*

The Board finds that the applicant has shown substantial hardship due to topography and shape of the lot.

2. *Desirable relief may be granted without substantial detriment to the public good.*

The Board finds that the proposed addition will not cause a substantial detriment to the public good. What the applicant is proposing to do should not affect said drainage pattern.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The Board finds that with the above listed conditions, the Variance may be granted without nullifying or derogating from the intent or purpose of this bylaw.

FURTHER FINDINGS

The Board finds that the proposed addition of a sun room to a single family dwelling is in harmony with the purposes and intent of the Bylaw. The proposed undertaking meets the criteria as stated in the Walpole Zoning Bylaw and will be consistent with the character of the neighborhood which is residential in nature. As shown on the plan, the proposed construction does not create any new deviations from the Zoning Bylaw and the By-law specifically empowers the Board to grant the requested Variance to allow the proposed construction.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

* * * * *

Said Variance is granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

"...No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant."

